

December 6, 2004

TEXAS WORKERS COMP. COMMISSION
AUSTIN, TX 78744-1609

CLAIMANT:
EMPLOYEE:
POLICY: M2-05-0192-01
CLIENT TRACKING NUMBER: M2-05-0192-01/5278

Medical Review Institute of America (MRIOA) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO). The Texas Workers Compensation Commission has assigned the above mentioned case to MRIOA for independent review in accordance with TWCC Rule 133 which provides for medical dispute resolution by an IRO.

MRIOA has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed. Itemization of this information will follow.

The independent review was performed by a peer of the treating provider for this patient. The reviewer in this case is on the TWCC approved doctor list (ADL). The reviewer has signed a statement indicating they have no known conflicts of interest existing between themselves and the treating doctors/providers for the patient in question or any of the doctors/providers who reviewed the case prior to the referral to MRIOA for independent review.

Records Received:

Records Received from the State:

- Notification of IRO Assignment, dated 10/07/04
- Texas Workers' Compensation Commission Form, dated 10/07/04
- Medical Dispute Resolution Request/Response, undated
- Texas Outpatient Non-Authorization Recommendation, dated 09/15/04
- Texas Outpatient Reconsideration Decision: Non-Authorization, dated 09/20/04

Records Received from Dr. Rashid

- Fax Cover Sheet, dated 10/11/04
- Request for Additional External Reviewer Case Information, dated 10/08/04

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- Return Visit Notes, dated 09/07/04
- Return Visit Notes, dated 07/30/04
- Return Visit Notes, dated 07/02/04
- Initial Consultation, dated 03/26/04
- Chart Notes, dated 05/12/03–03/15/04
- History and Physical, dated 05/06/03
- EMG/Nerve Conduction Study Report, dated 10/23/03
- MRI of the Lumbar Spine Report, dated 06/05/03
- Follow-Up Notes, dated 02/18/04
- Follow-Up Notes, dated 01/13/04
- Follow-Up Notes, dated 09/23/03
- Lumbar Epiradicular Injection Operative Report, dated 09/17/03
- Lumbar Epiradicular Injection – Bilateral L4–L5 and S1 Operative Report, dated 09/03/03
- MRI of the Lumbar Spine Report, dated 06/05/03
- EMG/Nerve Conduction Study Report, dated 10/23/03
- MRI of the Lumbar Spine Report, dated 06/05/03
- EMG/Nerve Conduction Study Report, dated 10/23/03
- Operative Report, dated 08/16/04
- Operative Report, dated 07/14/04
- Copy of Check #0040151737, dated 11/19/04

Summary of Treatment/Case History:

The claimant is a 64-year-old gentleman who allegedly suffered a workplace injury in _____. Subsequently he developed low back pain which radiates to both legs. Initially he underwent physical therapy and some injections of an unknown type, which apparently were not effective. The medical record is silent as to any treatment for the next 10 years. He apparently presented for care in May 2003. On physical examination, he had a positive left SLR and paravertebral tenderness. An MRI examination revealed disc herniations at L1–2 and L3–4 and foraminal stenosis at L4–5 and L5–S1. An EMG was suspicious for spinal stenosis and L4, L5 and S1 radiculopathy. He has undergone facet joint injections and radiofrequency denervation and lumbar epidural steroid injections. These have provided partial temporary pain relief.

Questions for Review:

1. Please address prospective medical necessity of the proposed lumbar diskogram, regarding the above-mentioned injured worker.

Explanation of Findings:

Question 1: Please address prospective medical necessity of the proposed lumbar diskogram, regarding the above-mentioned injured worker.

The submitted medical record substantiates the satisfaction of the selection criteria listed below. Therefore, the proposed discography must be considered to be medically necessary.

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Conclusion/Decision to Certify:

Certify discography at the L1–2 to L5–S1 levels.

Applicable Clinical of Scientific Criteria or Guidelines Applied in Arriving at Decision:

Reasonable selection criteria for discography are the following:

1. A history of at least three months of back pain with or without radicular symptoms.
2. Failure to adequately improve with a comprehensively applied, aggressive, nonoperative treatment program, consisting of stabilization, exercise training, back education, activity modification and epidural steroid injections.
3. MRI showing degenerative disc disease with or without a contained protrusion or herniation.
4. Epidural steroid injections ineffective for radicular pain.
5. Myofascial pain syndrome and facet joint arthropathy ruled out for axial pain.

References Used in Support of Decision:

Madan, et al. (2002). Does provocative discography screening of discogenic back pain improve surgical outcome? J Spinal Disord Tech 15:245–51.

Carragee, et al. (2000). The rates of false–positive lumbar discography in select patients without low back symptoms. Spine 25:1373–80; discussion 1381.

Anderson and Flanagan (2000). Discography. Curr Rev Pain 4:345–52.

The physician providing this review is board certified in Anesthesiology. The reviewer holds additional certification in Pain Medicine from the American Board of Pain Medicine. The reviewer is a diplomate of the national board of medical examiners. The reviewer has served as a research associate in the department of physics at MIT. The reviewer has received his PhD in Physics from MIT. The reviewer is currently the chief of Anesthesiology at a local hospital and is the co–chairman of Anesthesiology at another area hospital. The reviewer has been in active practice since 1978.

MRIOA is forwarding this decision by mail, and in the case of time sensitive matters by facsimile, a copy of this finding to the treating provider, payor and/or URA, patient and the TWCC.

YOUR RIGHT TO REQUEST A HEARING

Either party to the medical dispute may disagree with all or part of this decision and has a right to request a hearing.

If disputing a spinal surgery prospective decision, a request for a hearing must be in writing and it

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must be receiving the TWCC chief Clerk of Proceedings within ten (10) days of your receipt of this decision as per 28 Texas Admin. Code 142.5.

If disputing other prospective medical necessity (preauthorization) decisions, a request for a hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings within twenty (20) days of your receipt of this decision as per Texas Admin. Code 102.4 (h) or 102.5 (d). A request for hearing should be sent to:

Chief Clerk of Proceedings
Texas Workers' Compensation Commission
POB 40669
Austin, TX 78704-0012

A copy of this decision should be attached to the request. The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute

It is the policy of Medical Review Institute of America to keep the names of its reviewing physicians confidential. Accordingly, the identity of the reviewing physician will only be released as required by state or federal regulations. If release of the review to a third party, including an insured and/or provider, is necessary, all applicable state and federal regulations must be followed.

Medical Review Institute of America retains qualified independent physician reviewers and clinical advisors who perform peer case reviews as requested by MRloA clients. These physician reviewers and clinical advisors are independent contractors who are credentialed in accordance with their particular specialties, the standards of the American Accreditation Health Care Commission (URAC), and/or other state and federal regulatory requirements.

The written opinions provided by MRloA represent the opinions of the physician reviewers and clinical advisors who reviewed the case. These case review opinions are provided in good faith, based on the medical records and information submitted to MRloA for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations. Medical Review Institute of America assumes no liability for the opinions of its contracted physicians and/or clinician advisors. The health plan, organization or other party authorizing this case review agrees to hold MRloA harmless for any and all claims, which may arise as a result of this case review. The health plan, organization or other third party requesting or authorizing this review is responsible for policy interpretation and for the final determination made regarding coverage and/or eligibility for this case.

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cc: Sahid Rashid, MD

Continental Insurance Company